

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

HENRY McMaster, in his official capacity as Governor of the State of South Carolina, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF LABOR, *et al.*,

Defendants.

Civil Action No.: 3:23-cv-1038-SAL

JOINT STATUS REPORT

Pursuant to the Court’s modified stay order (ECF No. 30), the Parties inform the Court that the Supreme Court decided *Corner Post, Inc. v. Board of Governors of Federal Reserve System*, No. 22-1008 (U.S.), on July 1, 2024. The Court held that “[a] claim accrues when the plaintiff has the right to assert it in court—and in the case of the APA, that is when the plaintiff is injured by final agency action.” Slip Op. at 1.

With the lifting of the stay in these cases, the Parties have conferred and propose the following briefing schedule:

August 30, 2024: Defendants’ Motion to Dismiss due

September 20, 2024: Plaintiffs’ Opposition due

October 11, 2024: Defendants’ Reply due

Further, in its July 1, 2024 text order, the Court indicated that the latest date it would accept for trial is September 22, 2025. However, “[c]ourts routinely resolve APA challenges on summary judgment motions.” *Xpress Grp. Inc. v. Cuccinelli*, No. 3:20-CV-00568-DSC, 2022 WL 433482,

at *3 (W.D.N.C. Feb. 10, 2022) (citing *Nieves v. McHugh*, 111 F. Supp. 3d 667, 679–80 (E.D.N.C. 2015) (“A court conducting judicial review under the APA does not resolve factual questions, but instead determines whether or not as a matter of law the evidence in the administrative record permitted the agency to make the decision it did.” (internal citations omitted)). “Thus, in an APA claim, ‘summary judgment becomes the mechanism for deciding, as a matter of law, whether the agency action is supported by the administrative record and otherwise consistent with the APA standard of review.’” *Nieves*, 111 F. Supp. 3d at 679–80 (quoting *Ohio Valley Envtl. Coal. v. Hurst*, 604 F.Supp.2d 860, 879 (S.D.W.Va.2009)).

Accordingly, and consistent with the Court’s desire to hear the Parties’ ultimate merits submission by September 22, 2025, the Parties have conferred and propose the following schedule for a merits determination in this case:

June 20, 2025: Plaintiffs’ Motion for Summary Judgment

July 18, 2025: Defendants’ Combined Opposition & Cross Motion for Summary Judgment

August 15, 2025: Plaintiffs’ Combined Reply & Opposition

September 5, 2025: Defendants’ Reply

September 22, 2025: Hearing on Motions for Summary Judgment

Respectfully submitted,

s/Wm. Grayson Lambert
Thomas A. Limehouse, Jr. (Fed. Bar No.
12148)
Chief Legal Counsel
Wm. Grayson Lambert (Fed. Bar No.
11761)
Senior Litigation Counsel
OFFICE OF THE GOVERNOR
South Carolina State House
1100 Gervais Street
Columbia, South Carolina 29201
(803) 734-2100
tlimehouse@governor.sc.gov
glambert@governor.sc.gov

Counsel for Governor McMaster

s/Robert E. Horner
Robert E. Horner (Fed Bar No. 7872)
S.C. Dep't of Labor, Licensing &
Regulation
P.O. Box 11329
Columbia, South Carolina 29211
803-896-4199
bob.horner@llr.sc.gov

*Counsel for S.C. Dep't of Labor, Licensing
& Regulation*

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

JULIE STRAUSS HARRIS
Assistant Branch Director

/s/ Jason C. Lynch
JASON C. LYNCH (D.C. Bar No. 1016319)
Trial Attorney
Federal Programs Branch
U.S. Department of Justice, Civil Division
1100 L Street, NW
Washington, DC 20005
Telephone: (202) 514-1359
Email: Jason.Lynch@usdoj.gov

Counsel for Defendants

July 15, 2024